

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN WILLIAM CRISMORE**, on February 3, 1999  
at 3:15 P.M., in Room 405 Capitol.

**ROLL CALL**

**Members Present:**

Sen. William Crismore, Chairman (R)  
Sen. Dale Mahlum, Vice Chairman (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Mack Cole (R)  
Sen. Lorents Grosfield (R)  
Sen. Tom Keating (R)  
Sen. Bea McCarthy (D)  
Sen. Ken Miller (R)  
Sen. Glenn Roush (D)  
Sen. Mike Taylor (R)  
Sen. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Larry Mitchell, Legislative Branch  
Jyl Scheel, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 216, 2/5/1999; SB 265,  
2/5/1999  
Executive Action: SB 216

**HEARING ON SB 216**

**Sponsor:** SENATOR CHUCK SWYSGOOD, SD 17, DILLON

**Proponents:**

**Chris Tweeten, Chairman, Reserved Water Rights Compact Commission**  
**Barbara Cosens, Legal Counsel, Montana Reserved Water Rights Compact Commission**

**Cheryl Williss, Chief, Water Rights Division of Mountain Prairie Region of Fish & Wildlife Service, Denver, CO**

**Bud Clinch, Director, Department of Natural Resources & Conservation**

**REPRESENTATIVE SAM ROSE, HD 87, CHOTEAU, Member of Reserved Water Rights Compact Commission**

**REPRESENTATIVE BILL TASH, HD 34, BEAVERHEAD**

**Harley Harris, Assistant Attorney General**

**Mike Murphy, Montana Water Resource Association**

**REPRESENTATIVE TONI HAGENER, HD 90, HAVRE, Member of Reserved Water Rights Compact Commission**

**SENATOR BEA MCCARTHY, SD 29, ANACONDA, Member of Reserved Water Rights Compact Commission**

**Opponents: None**

**Opening Statement by Sponsor:**

**SENATOR CHUCK SWYSGOOD, SD 17, DILLON**, presented **SB 216** which is a Water Rights Compact between the State of Montana and the United States Fish and Wildlife Service. This is a bill which has been in negotiation since 1996 and finished this past summer. He thanked Cheryl Williss, her staff and the compact staff as well as the water rights holders in the affected area. He introduced letters of support from the holders into the record.

**EXHIBIT (nas27a01)**

**Proponents' Testimony:**

**Chris Tweeten, Chairman, Reserved Water Rights Compact Commission**, stated he was pleased to bring the agreement reached between the compact commission and the United States Fish and Wildlife Service dealing with the water rights reserved for the Red Rocks area in Beaverhead County. The Compact Commission was created in 1979 as part of the state wide water adjudication system put in place with **SB 76**. It exists for the sole purpose of negotiating settlements with the United States Government and the Indian tribes in Montana of claims they have for federal reserved water rights.

When the legislature enacted the water adjudication in 1979, it was advised, there were federal reserved water rights in addition to the thousands of water rights claims that exist under state law in Montana. Federal reserved water rights are fundamentally different in several respects from water rights that arise under

state law. The legislature was aware that quantification of federal reserved water rights through litigation was a very expensive and time consuming process. The legislature, in its wisdom, understood that out of court settlements of those kinds of claims are preferable to litigated outcomes for a variety of reasons. They are cheaper, quicker and most importantly, they provide the opportunity to reach an agreement that resolves more than just a quantity and priority date for a water right.

In the context of the compacts, they not only agreed on quantity and priority for the water that is claimed by the United States for the Fish & Wildlife Service in the Red Rocks, but they have also made agreements as to how those water rights are to be administered. In case a dispute should arise over water rights, all parties have a clear understanding how those disputes are going to be resolved and how the waters are actually going to be put to use on the ground.

**Barbara Cosens, Legal Counsel, Montana Reserved Water Rights Compact Commission** assisted by **Stan Jones, Hydrologist for the Commission**, gave a slide presentation and information presented in **EXHIBIT(nas27a02)**.

**Cheryl Williss, Chief, Water Rights Division of Mountain Prairie Region of Fish & Wildlife Service, Denver, CO**, spoke in support of **SB 216** as per written testimony in **EXHIBIT(nas27a03)**.

**Bud Clinch, Director, Department of Natural Resources & Conservation** stated within DNRC, both the Water Resources Division which is charged with the management of Montana's waters as well as the Trust Land Management Division, a water right holder and landowner in the basin, and on behalf of the Governor he stood in support of **SB 216**.

**REPRESENTATIVE SAM ROSE, HD 87, CHOTEAU, Member of Reserved Water Rights Compact Commission**, urged the committee to accept a compact that was well done. He represents the producers and in talking with them they seem satisfied and the agreement is in the best interest of the State of Montana and the Fish & Wildlife Service.

**REPRESENTATIVE BILL TASH, HD 34, BEAVERHEAD**, represents the Centennial Valley area where the Red Rock Refuge is located. He sat in on several of the compact meetings to protect water rights. This compact commission, through the process of negotiations, was very effective to recognize prior claims on water based on testimony submitted by irrigators above the refuge. That testimony substantiated the fact that water diverted above the refuge is what sustains instream flows that

builds the potholes and fills the holes and waterways. This negotiation played a key role, particularly where there was a tendency from out-of-state lawyers not to recognize the importance of those traditional practices. He was aware of some concerns regarding other uses of water, particularly grazing on public lands, and thinks they are important to note and acknowledge, but feels this example of a negotiated settlement is better than legal action. He encouraged support of **SB 216**.

**Harley Harris, Assistant Attorney General**, appeared today on behalf of Attorney General, Joe Mazurek, to stand in support of **SB 216**. The Red Rocks Compact demonstrates the success and wisdom of the states policy of negotiating rather than litigating over these complicated water rights issues. It allows the state to work with the affected people, the irrigators and other stakeholders, to fashion win win solutions to difficult water supply problems. Compared to litigation, it enables the state to secure a significant higher level of protection and security for its state citizens, water users and others, than with litigation.

**Mike Murphy, Montana Water Resources Association**, spoke in support of **SB 216**. The Red Rock Compact represents the culmination of considerable extensive public participation, particularly local participation. As **REP. TASH** indicated, they feel the water rights of the water users in the area are adequately protected. They feel this is a good compact and urge the committee's support.

**REPRESENTATIVE TONI HAGENER, HD 90, HAVRE, Member of Reserved Water Rights Compact Commission**, stated although she was not a member of this particular team, she is aware of the work that was done in negotiating with not only the various agencies involved but also with the local individuals. They have come to a good agreement that is accepted by all the parties involved and **SB 216** has her support.

**SENATOR BEA MCCARTHY, SD 29, ANACONDA, Member of Reserved Water Rights Compact Commission**, spoke in support of this very long negotiated process. She praised the staff who worked so hard on this compact. She urged the committee's support.

**Opponents' Testimony:** None.

***{Tape : 1; Side : A; Approx. Time Counter : 0 - 31.1; Comments : None.}***

**Questions from Committee Members and Responses:**

**SENATOR GROSFIELD** questioned page 15, lines 14 and 15 where it talks about "any attempt unilaterally to modify the Compact by either party". To whom does party refer? **Barbara Cosens** stated basically the State of Montana or the United States. Once these are approved by the legislature and signed by the Governor it is actually an agreement between the state and once approved by the Department of Interior and Justice, it is the United States.

**SEN. GROSFIELD** said what happens if ten years down the road **SEN. SWYSGOOD'S** successor decides he does not like this compact and introduces a bill to modify it in some fashion. Is that an attempt unilaterally to modify? **Barbara Cosens** stated if the bill did not pass it would not have any effect.

**SENATOR KEATING** questioned the area upstream. What kind of return flow is there to the lower end? Was there a level or standard decided upon? **Barbara Cosens** said she assumed he meant by the irrigators upstream. The only thing that occurs is flood irrigation and her guess is about 50% of the water returns to the streams.

**Closing by Sponsor:**

**SENATOR CHUCK SWYSGOOD, SD 17, DILLON**, stated it was his pleasure to serve as the Chair of the negotiating team for the state and once again expressed his sincere thanks to all the players for the long hours they put in and to the water users in the area.

**SB 216** is a result of all their efforts. He warned that any attempt to modify this Compact Commission by this Committee or anyone in the legislature jeopardizes the whole compact and they go back to ground zero.

*{Tape : 1; Side : A; Approx. Time Counter : 31.1 - 35; Comments : None.}*

**EXECUTIVE ACTION ON SB 216**

**Motion/Vote:** **SEN. MCCARTHY** moved that **SB 216 DO PASS**. Motion carried 11-0.

**HEARING ON SB 265**

**Sponsor:** **SENATOR DUANE GRIMES, SD 20, CLANCY**

**Proponents:**

**Bill Snoddy, Montana Gold Project**

Bill Neal, Hanover Gold Company  
Connie Cole, Harding Lawson Associates  
David Russell, Owner of Bush Drilling, Inc., Belgrade, MT  
Jeff Stoffer, President, Townsend Area Chamber of Commerce  
Craig Stiles, Consulting Geologist, Helena  
Bruce Cox, Consulting Geologist, Helena  
Tom Bourns, Consulting Geologist, Helena  
Eric Stimson, Mineral Exploration Geologist  
Frank Crowley, ASARCO  
Russ Ritter, Montana Resources  
Dan McGrane, Consulting Geologist  
Jim Mockler, Montana Coal Council  
Jim Hohn, Broadwater County Commissioner  
Don Allen, Western Environmental Trade Association  
Jill Andrews, Montana Mining Association  
Larry Johnson, Consultant  
Terry Williams

Opponents:

Jeff Barber, Montana Environmental Information Center  
Aaron Browning, Northern Plains Resource Council

Informational Witness:

Robin McCullough, Bureau of Mines

Opening Statement by Sponsor:

SENATOR DUANE GRIMES, SD 20, CLANCY, presented SB 265 which is an act providing for exploration incentive credits for activities involving locatable and leaseable mineral and coal deposits on certain land in the state. He quoted the Fraser Institute, a mining company think tank organization, which rates North American sites, states, and provinces for their comparative mineral availability and for the comparative exploration opportunities they might hold. Montana rates extremely high as far as mineral deposits and mineral potential. On the other hand as far as policy potential index we rate very low, about third or fourth from the bottom. Generally Montana and Wisconsin rate at the bottom for any mining potential. The overall investment attractiveness is very low with taxation being one of the big issues. Environmental regulation and administrative procedures were also extremely high. Overall, of all the people surveyed, taxation, environmental regulation, uncertainty concerning the administration and enforcement of regulations were among the four highest areas causing uncertainty among the potential businesses that could locate in the state.

He completed his opening by reading a letter from an exploration engineer "as a mining engineer trying to make a living in Montana, it is very discouraging to see that there is very little mineral exploration being done in this state, if any. If we are not looking for new ore deposits we won't find any. Mining has always been an important part of Montana's economy as signified by our state motto Oro-Y-Plata. The taxpayers of the state continue to fund Montana Tech, a premier mining school that turns out engineers trained to extract the mineral riches from the earth for the benefit of all. We also fund the Montana Bureau of Mines in order to study and promote the development of our mineral resources....It takes nearly a decade to locate, define, develop and permit a new deposit and it seems that this time frame is getting longer each year. **SB 265** gives a much needed financial incentive for someone to invest today's dollars in hopes of generating a return at some later date. Montana was a hot bed of mineral exploration in the 1980's and most major companies had an exploration office somewhere in Western Montana and, as we all know, the exact opposite is true today. Montana can reclaim her mining heritage that has been taken from us by environmental obstructionists. **SB 265** is a constructive way to keep a vital part of Montana's economy. My heartfelt thanks for this bill."

This bill is modeled after one in the State of Alaska. In less than a ten year period of time we went from having over \$30 million a year spent in exploration in this state to less than \$500,000 in 1997. This has more to do with jobs and income than anything else you may see before you as a committee. He then went through the bill.

**{Tape : 1; Side : B; Approx. Time Counter : 0 - 10.5; Comments : None.}**

**Proponents' Testimony:**

**Bill Snoddy, Montana Gold Project**, presented written comments by Teresa Garland who owns Garland's Country Store in Lincoln. She was unable to attend today due to bad roads. **EXHIBIT (nas27a04)**. He then went on to speak in support of **SB 265**. In 1989, mining exploration contributed \$28.6 million to the State of Montana. That same year we ranked 47th in the nation for average annual wage. In the last decade, exploration has decreased to \$400,000 and we have sunk to a low of 51st in the nation. If we had that money available to us today in Montana to back up a \$1.2 million vital tourist industry this would generate a 2.4% increase on that tourist money. The bill **SEN. GRIMES** mentioned in Alaska was instituted in 1995 as a revitalization program for the mining industry there. It has generated a flurry of exploration

activity. Exploration activity produces an immediate boom to communities which in turn results in these businesses paying more taxes to the State of Montana. This produces a win win situation for everyone. Montana has become known as the most inhospitable state in the nation to mine. This bill will start the process of turning that viewpoint around.

**Bill Neal, Hanover Gold Company,** supports **SB 265** as one small step toward improving the climate of mineral exploration in Montana. Hanover Gold is a small exploration company that focuses primarily in Montana. Hanover spent nearly \$15 million in Montana over the past seven years. This money has been paid directly into the Montana economy through salaries, leases and services. In an exploration season, Hanover may have up to 15 to 20 people working for them on a project who stay in the local motels for months at a time, eat in the local restaurants and buy gas. They are in the field long before the tourists arrive and stay well after they have gone home. They provide income to these businesses during some pretty slow times.

This is not trickle down economics, this is a direct injection of millions of dollars into the economy of the local areas. Exploration has declined dramatically in Montana over the last few years primarily due to the difficulties of permitting a mine in the state. This is not due to strict rules but because the permitting process does not work. Hanover is about the only exploration company left today with an office in Helena. With I-137 in place, we are also faced with being unable to work in Montana. Many of the policies and laws in the State send a message to the industry that we are not wanted here. It is not about doing right, it is just that we are not wanted here. To counter that message, if Montana wants to encourage mineral exploration in the state, this bill is a good first step.

**Connie Cole, Harding Lawson Associates,** stated she had worked in support of the mining industry for all 27 years of her professional career working as a regulator and a private consultant. She supports this bill because she is concerned Montana is losing the economy from natural resources. Montana needs to be recognized for its great wealth - in our people and natural resources.

**David Russell, Owner of Bush Drilling, Inc., Belgrade, MT** spoke in support of **SB 265** as per written testimony **EXHIBIT (nas27a05)**.

**Jeff Stoffer, President, Townsend Area Chamber of Commerce,** represents about 100 Broadwater County businesses who realize the economic importance of natural resource industries. Their economy is largely 60% agriculture and the other two largest



portions of the economic pie can be divided between timber and mining. Mine exploration has represented, in the past, a significant portion of another sliver of their economic pie and that is tourism. They truly do benefit, as a small town, from mining dollars and they strongly support SB 265. He also delivered a letter from the State Bank of Townsend in support of SB 265. **EXHIBIT(nas27a06)**.

**Craig Stiles, Consulting Geologist, Helena,** spoke in support of SB 265 as per written testimony **EXHIBIT(nas27a07)**.

**Bruce Cox, Consulting Geologist, Helena,** spoke in support of SB 265 as per written testimony **EXHIBIT(nas27a08)**.

**Tom Bourns, Consulting Geologist, Helena,** stated he moved to Montana 10 years ago primarily working for a large mining company called BHD Mineral Company. They have spent millions and millions of dollars in mining exploration over the years. He has watched their programs dwindle, however, over the last several years. They did exploration this last season which became their last season of exploration. The reason for this was the message sent as result of the passage of the voter initiative 137. He continued to seek employment for another year of exploration with this company and was told that, as a matter of management policy, their company has withdrawn from any further exploration in the State of Montana. For this reason, he supports **SB 265** in the hope it will send the awakening of a new message that the State of Montana does support mining as a livelihood and to support the economy of the services that depend upon it.

**Eric Stimson, Mineral Exploration Geologist,** spoke in support of SB 265 as per written testimony **EXHIBIT(nas27a09)**.

**Frank Crowley, ASARCO,** stated ASARCO was a company with 100 year history of mining in Montana. It is one of the few companies that actually survived through two World Wars, and has spent over \$100 million in East Helena and other projects in the state on cleanups and environmental controls. They are now facing the prospect of engaging in mining in new and modern techniques in Northwestern Montana. They support **SB 265** and thank **SEN. GRIMES** for bringing the bill forward.

**Russ Ritter from Montana Resources** had hoped to be here and asked that Mr. Crowley inform the committee that Montana Resources would like to go on record in support of **SB 265**.

**Dan McGrane, Consulting Geologist, Helena,** stated he has worked in the minerals industry for 24 years, living 18 of those years in Montana. He has had work in Montana the past 18 years with

the exception of last year. Each year it gets harder to find work. This last year he has worked extensively out of the country. He supports **SB 265** because it represents a good opportunity to put Montanans back to work at good paying jobs.

**Jim Mockler, Montana Coal Council**, stated he doubted the coal industry, for the near term, would have the opportunity to use this bill. He commended **SEN. GRIMES** for including them. They are much like the farmer who lives in eternal hope that maybe someday they will go into a new development process and be able to use it. It is a positive thing and there is absolutely nothing to lose. If it does not work, no one gets any advantage. Hopefully it will return Montana to its rightful stance in mineral development.

**Jim Hohn, Broadwater County Commissioner and Small Business Owner**, spoke in support of SB 265. They look at it as an opportunity for the state to send a message and stabilize their tax base. They are having problems in their county supporting law enforcement facilities, schools, etc. with the attitude things are bad and they are not going to get much better in the future.

**Don Allen, Western Environmental Trade Association**, spoke in support of **SB 265**. He felt we had heard from the real people today. He enjoys this type of hearing because he does not feel the need to say anything or add anything. The people who do the work and are really close to it are asking for an opportunity to stimulate and give an incentive back to this industry. This particular area of work has really been tough. All the **WETA** members involved in natural resource industries are going through tough times right now. They feel the need to do something as an incentive for their basic industries and not any one deserves it more than the mining industry. They are currently being denied the opportunity to make a good living and keep their families here which is important. He encouraged a DO PASS.

**Jill Andrews, Montana Mining Association**, spoke in support of **SB 265**.

**Larry Johnson, Consultant**, stated he had e-mailed a letter to the members of the committee last night. To add to that, he has been in the minerals exploration and development business for 20 years. Approximately 10 of those years have been in the State of Montana. Those in opposition to mining say their money never stays here. He relayed all the towns he had shopped in, and he paid his mortgage and taxes in Missoula. The money stays here in the state. This bill will not cost them anything unless it does not pass. He encouraged a DO PASS.

**{Tape : 1; Side : B; Approx. Time Counter : 10.5 - 45; Comments : None.}**

**Terry Williams**, stated he was a fourth generation Montanan who started a mining company in 1980 with his father. All their employees were Montana based Phillips County citizens. In 1991 they could no longer support their operation. The way of life they had enjoyed up to 1991 was based on the mining industry. His father paid for his ranch with the mining industry. He sees an industry fading away in Montana that goes back for a number of years which allowed people to support and raise their families. He stands in support of the bill.

**Opponents' Testimony:**

**Jeff Barber, Montana Environmental Information Center**, stated they object to this bill for three reasons. 1) Some of the language in the bill is vague and could be tightened up. 2) The fiscal note which says zero fiscal impact he finds unbelievable. 3) They do not necessarily agree that this is sound public policy.

He sees problems with the language of the bill. He is told the tax credit applies to exploration only if you open a new mine. There are two places referenced in the bill where that could be the case. First on page 1, lines 19-21 and the second on page 3, lines 12-14. No where does it say a mine must open to receive the credit. That should be made more clear before passing out of committee if that is what the committee sees fit to do.

The other objection he has to the language is in Section 10 - where it states "a taxpayer may deduct the donation of mineral exploration information to Montana Tech of the University of Montana exploration expenditures made in gathering that exploration information in Montana." There is nothing in this bill that applies only to legitimate mineral rights and people doing legitimate mineral exploration.

The fiscal note says zero. He feels the reason for that is they just do not know. Right now there is exploration going on in this state which will have some fiscal impact if they are allowed to write this off on their taxes. He brought an article from the **Montana Standard** from January 7 which states there is a company planning to do exploration this Spring south of Butte. **EXHIBIT (nas27a10)**. He is told there is also exploration still going on in the Elkhorns on the Little Blackfoot. He thinks it would serve this committee well to dig a little deeper into what fiscal impact this may be. If this bill passes and exploration

comes back into the state, the fiscal implications could be enormous.

Finally, the mining industry is hurting in the state. Neither I nor my organization takes any pleasure in that but the biggest reason, in our opinion, for the mining industries problems right now is the price of gold which is at an extreme low. I-137 did not shut down Pegasus, it was the price of gold. They feel the price of gold is so low because there is too much on the market. For all those reasons, they do not stand in support of this bill and hope it will be tabled.

**Aaron Browning, Northern Plains Resource Council** stated they agree with the concerns that the Montana Environmental Information Center (**MEIC**) has with this bill. He pointed out #3 under the assumptions in the Fiscal Analysis on the Fiscal Note which states "the **DEQ** does not expect any exploration incentive credits or tax deductions during the 2001 biennium due to the current, low prices for minerals and coal." He does not think passing this bill is going to result in a wide increase in the amount of exploration for gold and coal that the proponents seem to think it will and stated, "As much as I would love to take credit for the low price or for all the bad things that are happening to the mining industry and the State of Montana, I think it does have to do with the price of gold more than anything else and I would submit that it does not really seem this bill is going to solve that problem." He encouraged this committee to meet with the taxation committee and look at the real fiscal impact this might have if this bill were to pass.

**{Tape : 2; Side : A; Approx. Time Counter : 0 - 6.5; Comments : None.}**

**Informational Testimony:**

**Robin McCullough, Research Mining Engineer, Bureau of Mines,** stated the mineral endowment in Montana is roughly 6,000 properties at this point. About 2,400 of those have produced in the past. The committee has heard about how much exploration they have had. Those dollars were spent as follows: \$400,000 went to local lodging, \$300,000 to local food, \$2.4 million for analytical services in Montana, \$9.3 million for drilling, trenching and local road building contracting, \$1 million to environmental contributions which included everything from cleaning up old sites that they had previous problems with to donating money for research to Fish & Game, \$118,000 public service contributions, \$123,000 claim filing fees, \$97,000 unproductive claims tax. All these dollars were spent in Montana, most spent within the county of exploration. Most of

the expenditures in the minerals industry is about 67% in Montana where the exploration is close to 100% in the local areas. Exploration in the next year will be 2-3 companies at best spending less than \$100,000, very little of it will be drilling. There may be some mapping done.

A rule of thumb within the industry is about one property in 500 will finally become a mine. It takes about 7-10 years for each property to go through exploration and it takes 7-10 years to permit it to go to a mine. If we started today, there is a real slim chance we could bring a property on in 20 years. We have 5-7 years left in Montana or we will lose all our metal mines in Montana except for Stillwater and Montana Resources. If the current copper prices stay where they are, the only one left is Stillwater. As a reference, in 1935 there were 17 cyanide mills and 65 gravity and flotation mills operating in the state. We certainly have not progressed a long ways.

Regarding Section 10 - they are hoping to encourage companies to use their organization as a repository for their information so instead of disturbing the property with this endless dig it up, look it over, bury it and come back the next time and do it again, they can provide them with prior data. If some of these maps are stockpiled, the environmental impacts can be decreased and they can further these properties along to start paying taxes and to employ people. They currently have information on about 3200 properties in their data base of the 6000 that exist. They probably have the most complete record of 1930 to 1940 of anyplace in the United States including the former U.S. Bureau of Mines.

**{Tape : 2; Side : A; Approx. Time Counter : 6.5 - 12.4; Comments : None.}**

#### **Questions from Committee Members and Responses:**

**SENATOR GROSFIELD** asked **Mr. Browning** if he was representing Northern Plains Resource Council. **Mr. Browning** answered that was correct. **SEN. GROSFIELD** questioned how many members Northern Plains Resource Council (NPRC) had? **Mr. Browning** stated it varies depending on the month as it is an annual membership. It is about currently 2000 households, 3000 individuals. **SEN. GROSFIELD** asked how long has NPRC been around? **Mr. Browning** responded since 1972. **SEN. GROSFIELD** stated he had written down his comment in which he said "as much as I would like to take credit for all the bad things happening in the mining industry in Montana, it is really the price of gold that is the problem." **Mr. Browning** said what he meant to say was that he feels like the conservation community is being blamed for the sad state of

affairs in Montana with regard to mining and he would submit that they feel, with regard to the exploration that would supposedly occur if this bill would pass, it is more dependent on the price of gold that it would be on anything that we have done. He certainly felt it was incorrect and probably inappropriate for him to say that the organization is anti-mining. He thinks most of the members would disagree with that and if he gave that impression he certainly did not mean to. **SEN. GROSFIELD** said it was more than an impression, that is exactly what you said.

**SENATOR COLE** stated he would like to follow up a little regarding **Mr. Browning's** remark on taking credit for the mining. He realized what he was trying to say at this time but he wondered if he was also going to take credit for the bad prices of livestock too? He thought this was a remark that was probably going to have a wide reaching effect. **Mr. Browning** stated he was not sure what the question was. He thinks his organization would feel that anything they have done is not creating the low price for cattle....for a long period of time they have been an advocate for anti-trust enforcement in the meat packing industry and mandatory price reporting is some of the other reforms that their friends in Stockgrowers and Farm Bureau and other "ag" organizations have been supporting. They feel they have made an effort to try to assist family farmers and ranchers in Montana in getting a better price for their product. **SEN. COLE** stated that what he was getting at is that remark could be tied to other things if that is the way he feels that he is taking credit for low prices. **Mr. Browning** stated he would like to take the opportunity now to apologize to the committee for that remark and clarify that he does not want to take credit for that personally, that is not their intention, especially after a lot of the things the proponents said, that they were being (the conservation community) blamed for the sorry state of affairs for mining. That is not a conclusion they agree with.

**SENATOR GROSFIELD** stated, for the record, he appreciated the apology but that kind of comment is just not called for and he guessed **Mr. Browning** knew that.

**SENATOR GROSFIELD** stated he is troubled with the mechanics of it and how it works. Was this bill meant to apply to the oil & gas industry? **SEN. GRIMES** stated he did not believe the Alaska statute, which was the germination of this idea, applies to the oil and gas industry. His instruction to the drafter was to make it broad and he had heard this comment earlier regarding concern over the definition of mineral. It is broad and he felt the broader this can be applied, the more effective the bill could be. He did not know enough about that industry to know if there are different dynamics this sets up. **SEN. GROSFIELD** encouraged

him to talk to some of the people from the industry and to **SEN. KEATING**. The bill talks about tax credit against income tax and presumably during the exploration phase. He was not clear if this bill applies only to the mining company, meaning a company that holds some kind of permit, or if this applies to each subcontractor that works on an exploration, for example a consulting geologist. Does it apply to their personal income tax or is it meant to only apply to the company that has some kind of an exploration permit? **SEN. GRIMES** stated at the top of page 3 describes a person as receiving the credit which is defined on the bottom of page 2 as an individual, corporation or partnership as defined in 15-31-201. Also, the breadth of the tax liability is whatever is defined in Title 15 Chapter 30-31. He said he would probably have to direct this to **Mr. Mitchell** to find out how broad that is but he did not intend to just limit this to income tax. **SEN. GROSFIELD** said still the question remains, are we talking about individuals? If you have one mine in a county, there may be all kinds of individuals working there. In the exploration phase, are we talking about wages of people working for the mine or are you talking about income for the mine itself? It is not real clear. **SEN. GRIMES** stated he would prefer it applied as broadly as possible to the income for the business entity and if that business entity is an individual, as defined on the bottom of page 2, he assumed it would apply. If that entity had employees he would not think it would apply any further down the chain.

**SENATOR McCARTHY** asked for clarification on **SEN. GROSFIELD'S** question on who received the credit and is it one credit? **SEN. GRIMES** responded this is described on the bottom of page 5. The application credit would be 50% of the person's tax liability for the tax year as related to production for mining operation. Of the 15 year duration on page 6, New Section 7 states not to exceed the total of \$20 million. That would be for the entity that is doing the exploration within 15 tax years not for each sub-entity.

**SENATOR GROSFIELD** referred to the bottom of page 5. The credit is for the tax liability related to production so that means after the exploration phase is done and into production. It could either apply to the first year of production up to 15 years, or it could apply to a person's tax liability for the tax year, which he assumed would mean during the exploration phase. On the bottom of page 3, is a Section that tries to define when the construction commencement date begins as that is the date after which you can no longer be given the credit. On Line 22 it says all approvals, permits, licenses and certificates are in full force and effect unrevoked. Does that imply that if the permit gets revoked then you go back into a status that would

allow a tax credit? **SEN. GRIMES** stated he agreed that is the effect of the subparagraph and he would have to give it more thought. He would contemplate the revoking of a permit and he could see that created some difficulty with some of the preceding language. **SEN. GROSFIELD** said that occurs a couple of places in the bill. Those issues will have to be looked into.

**CHAIRMAN CRISMORE** said if **SEN. GRIMES** would like to work with **Larry Mitchell** and himself, these questions could be worked through.

**SENATOR GROSFIELD** stated in Section 10, he felt Mr. Barber had a point regarding the need for certifiable information of some sort. **SEN. GRIMES** stated he would agree there needs to be a cap to how much someone could claim for the tax credit for the information submitted. He would be amenable to any amendments from the committee. This is different from the Alaska Statute. The Alaska Statute says data generated by the exploration must be given to the state at such a time as the company begins taking the credit. Three years after first taking the credit, the data becomes available to the public. A little more far reaching than what we are doing on this bill and a little different emphasis on an incentive. He would leave that information with the staff researcher for deliberation in executive action.

*{Tape : 2; Side : A; Approx. Time Counter : 12.4 - 28.4;  
Comments: None}*

**Closing by Sponsor:**

**SENATOR GRIMES** thanked the committee for the good hearing and all the excellent proponents in attendance. He could not imagine a more positive thing to do for jobs and income and families in this state. He would like to use this money incentive bill as an example of the state's new attitude of partnership within this industry and to overturn the negative messages that have been sent out, even within the last year or two. He will make sure he gets some of the technical questions answered and get back to the committee.

**CHAIRMAN CRISMORE** stated he appreciated all the work **SEN. GRIMES** had done on this bill. He agreed that it was very important that when the legislators leave in another two months that they have left a message to Montana and to their constituents that they do want to change their image and they are going to be aggressive to get people working in Montana.



*{Tape : 2; Side : A; Approx. Time Counter : 28.4 - 33; Comments :  
None.}*

**ADJOURNMENT**

Adjournment: 5:10 P.M.

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SEN. WILLIAM CRISMORE, Chairman

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JYL SCHEEL, Secretary

WC/JS

**EXHIBIT (nas27aad)**